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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,984	07/24/2001	Nancy Piggins	1045-003	3402

7590 04/22/2005  
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EXAMINER

SHAH, ANKEETA

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/911,984	PIGGINS, NANCY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ankeeta Shah	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 24 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/10/2003</u>  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-11 and 14 rejected under 35 U.S.C. 102(e) as being anticipated by Kennedy, III et al. (hereafter Kennedy, US PAT 6,167,255).

**Re Claim 1:** Kennedy discloses: A method of doing business aiding in communications between commercial merchants and consumers comprising the steps of: (a) entering customer specific data inquiries into a computer database (i.e. stored profile tables, see col4, lines 1-5), said database having preprogrammed communication links to a wireless data network (see col4, lines 4-5 and lines 17-21); (b) searching said wireless data network for customer specific communication links (see col4, lines 38-42); (c) retrieving said customer specific data communication link(see col4, lines 38-42); (d) facilitating interactive data communication between said database and said customer specific data communications link(see col7, lines 39-53); (e) transmitting interactive data to customer operated wireless communications device(see col4, lines 46-50).

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**Re Claim 2:** Kennedy discloses: A method for receiving and transmitting consumer inquiries for commercial items to a pre-selected location for placement, comprising: providing a computer for transmitting signals to and receiving signals from customer operated devices (see col6, lines 18-29), wherein the computer receives customer purchase inquiry information (i.e. information services, see Fig. 6); comparing customer identifier(i.e. identifier of mobile unit, see col24, lines 25-36) with customer profile information stored on a computer readable medium associated with the computer(i.e. profile tables, see col24, lines 25-36) ; retrieving an existing customer profile or creating a new customer profile if no existing file is available(see col8, lines 48-57); transmitting a signal representative of a visual display of purchase inquiry items(i.e. visual display of inquiry items, see Fig 6); and transmitting customer inquiry data to an operation center(i.e. service center, see col4, line 1) for placement(see col3, lines 64-65 and col4, line 1).

**Re Claim 3:** Kennedy further discloses that the computer is associated with a server for permitting data communication between the computer and one or more customer operated devices (see col1, lines 53-60).

**Re Claim 4:** Kennedy further discloses that the computer readable medium is programmed with software instructions for retrieving an existing customer profile or creating a customer profile (see col8, lines 48-57).

**Re Claim 5:** Kennedy further discloses that wherein the customer profile information is stored on the computer readable medium (see col8, lines 48-55).

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**Re Claim 6:** Kennedy further discloses that the computer readable medium is a random access memory, read only memory, floppy disk, magnetic hard disk drive, a magnetic/digital tape or a CD-ROM (see col4, lines 52-55).

**Re Claim 7:** Kennedy further discloses that the customer operated devices include a computer, personal data assistants, telephones, pagers, television systems, or a household appliance (i.e. items that are movable or mobile, see col4, lines 6-10).

**Re Claim 8:** Kennedy further discloses that wherein the visual display includes graphic representations of retail items (i.e. list of menu items, see col14, lines 33-35 and col26, lines 34-37).

**Re Claim 9:** Kennedy further discloses that the visual display includes alphanumeric representations of retail items (see Fig 6).

**Re Claim 10:** Kennedy further discloses that the signals representative of a visual display of retail items (see col26, lines 34-37 and Fig 6).

**Re Claim 11:** Kennedy further discloses that the method further includes the step of transmitting a signal confirming the customer's inquiry information (see col4, lines 38-50).

**Re Claim 14:** Kennedy further discloses that the computer activates a search algorithm that cross-references customer profile data with geographic information stored on the computer readable medium for each operation center (see col8, lines 48-62).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12-13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy in view of Matsumori (US PAT 6,179,206).

**Re Claim 12:** Kennedy does not disclose that the method further includes the step of prompting the customer to place the selected items by choosing among displayed payment options.

Matsumori discloses: the method further includes the step of prompting the customer to place the selected items by choosing among displayed payment options (see col5, lines 39-47).

Thus it would be obvious to one having ordinary skill in the art at the time of invention was made to modify the method of Kennedy by adapting the teaching of Matsumori to give the customer more options for doing business.

**Re Claim 13:** Kennedy does not disclose that the displayed payment options include cash at time of placement, credit card, money order, or debit card

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Matsumori discloses: the displayed payment options include cash at time of placement, credit card, money order, or debit card (see col7, lines 43-50).

Thus it would be obvious to one having ordinary skill in the art at the time of invention was made to modify the method of Kennedy by adapting the teaching of Matsumori to give the buyer alternative means of payment.

**Re Claim 15:** Kennedy does not disclose that the computer activates a bar code associated with the selected item.

Matsumori discloses: that the computer activates a bar code associated with the selected item(see col7, lines 34-35).

Thus it would be obvious to one having ordinary skill in the art at the time of invention was made to modify the method of Kennedy by adapting the teaching of Matsumori to determine the price for each item.

**Re Claim 16:** Kennedy does not disclose that the computer activates a bar code associated with the selected item (see col7, lines 34-35).

Matsumori discloses: that the computer activates a bar code associated with the selected item.

Thus it would be obvious to one having ordinary skill in the art at the time of invention was made to modify the method of Kennedy by adapting the teaching of Matsumori to determine the price for each item.

## CONCLUSION

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not relied upon prior art discloses:

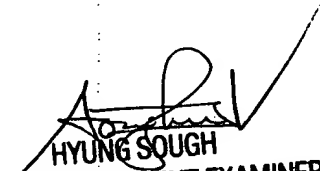
- A remote ordering system that enables the building of a database of user-discernable product or service identification information within a user-accessible device (US PAT 5,664,110),
- An electronic shopping system facilitates purchase transactions via a wireless videophone (US PAT 6,512,919) and
- An automated product purchasing system allows purchasers to order products via a remote communications medium (US PAT 5,918,213).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ankeeta Shah whose telephone number is (703)305-0853. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (703)308-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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